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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/930,449	10/07/1997	HIROYUKI ABE	JAO-39514	3024
25944	7590	04/06/2005	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			RAO, SHRINIVAS H	
			ART UNIT	PAPER NUMBER
			2814	

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

08/930,449

Applicant(s)

ABE ET AL.

Examiner

Steven H. Rao

Art Unit

2814

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22305 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): none.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1,2,4-18 and 64-69.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

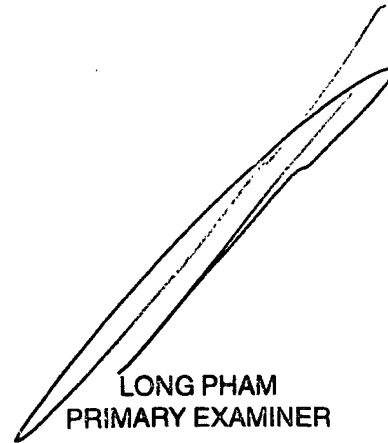
REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see below.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 30805
13. ☐ Other: See Continuation Sheet.

Continuation of 13. Other: Applicants traverse of the 112 rejection of claims 12-18 and 65-69 is not persuasive because Applicants' arguments are not commensurate with presently recited claims Applicants may overcome 112 rejections by substituting "above a top of the chamber" by "a window being provided at a top surface of the projected portion of the wall" or similar language as recited in claim 1, etc. Therefore the 112 rejections of claims 12 and dependent claims 13-18 and 65-69 is maintained. It is noted that all of Applicants' arguments are based on impermissible piece meal analysis. Applicants' are reminded the gist of 103 rejection is that the combined teachings of two references teach all the recited limitations and it is not necessary for each of the referee to teach all of the limitations. (if this were the case a 102 rejection would have been made).

Applicants' contention that Nakamura does not teach formation of a crystalline film is not persuasive because Nakamura at least in figure 1 # 33 and abstract lines 1-2 describes polycrystalline film. Besides "crystalline film" is mentioned in the preamble of the claims only. Applicants' contention on page 3 first full paragraph is not persuasive for reasons set out under rejections of claims of claims 1 and 12 in the final rejection and incorporated here by reference. Contrary to Applicants' assertions Nakamura at least in figure 6 describes a window near the side wall of the chamber disposed orthogonally outward from the surface of the substrate above a top of the chamber (the upper surface of window is above chamber wall. Applicants' contention that there is no motivation to combine Cathey and Nakamura is not persuasive because it is well settled law that "the fact that applicant uses a different purpose does not alter the conclusion that its use in a prior art device would be prima facie obvious from the purpose disclosed in the reference In re Lintner, 173 USPQ 560.

SK
H/105



LONG PHAM
PRIMARY EXAMINER